IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY SECOND DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 18696 of 1998

Between:

A.V. Subramanyam, S/o. A. Anjaneyulu, Kurnool.

..... PETITIONER

AND

1 The Kurnool Municiapl Corporation, represented by its Commissioner, Kurnool
2 The Regional Deputy Director of Town Planning, Anantapur.
3 S. Inayat, Person-in-Charge as Mutavalli, Bilal-E-Majid,

Lakshminagar, Kurnool

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ of Mandamus or any other appropriate Writ or order holding that the inaction of the first respondent in implementing the provisions of the kurnool Municipal Corporation Act as illegal, arbitrary and unreasonable and further direct the first respondent to enforce the provisions of the kurnool kurnool Municipal Corporation Act by removing the illegal construction of the third respondent in the premises of bailal-E-Majid, Lakshminagar, Kurnool, Kurnool Dist.

For the Petitioner: MR. K. SOMA KONDA REDDY, Advocate

For the Respondent No.1: MR. E. SRIDHAR, SC FOR KURNOOL MUNICIPAL CORPORATION

For the Respondent No.2: -- None appeared

For the Respondent No.3: -- Mr. Mirza Nisar Ahmed Baig

The Court made the following :

ORDER:

Heard the learned counsel for the petitioner and the learned Standing Counsel for the first respondent-Municipal Corporation.

By this writ petition, the petitioner seeks a direction to the first respondent to enforce the provisions of Kurnool Municipal Corporation Act and remove the illegal construction being made by the third respondent and prevent the third respondent from making further illegal construction in the premises of Bilal-E-Majid, Lakshminagar, Kurnool.

The petitioner states that in between his house at Lakshmi Nagar, Kunool and the Masjid of the third respondent, there is a 15 feet wide road. It is stated that the third respondent contrary to the building Rules and Bye-laws and without any sanctioned plan, started constructing shops facing the 15 feet wide road without leaving any open space between the road and the building. Though he sent notices to respondent Nos.1 and 2 bringing to their notice the said fact, no action has been taken in the matter. Hence, the writ petition.

The first respondent filed counter-affidavit denying the allegations made in the affidavit filed in support of the petition. It is stated that the third respondent is opening the windows to the existing building towards the 15 feet wide road, and for such opening there is no necessity to grant permission by the second respondent, as such no action has been initiated against the third respondent.

Inasmuch as the third respondent, as per the counter averments, is opening windows to the existing building towards the road, and since the opening of windows to the existing building does not require any permission from the Municipal Corporation, the contention of the petitioner that respondent Nos.1 and 2 have not taken any action against the third respondent for making illegal constructions without

any sanctioned plan and contrary to the Building Rules and Bye-laws, cannot be sustained.

In the above view of the matter, there is no merit in the writ petition, and the same is accordingly dismissed. No costs.

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N.V. RAMANA, J

Date: 22-02-2005

Svv

..... REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Commissioner, Kurnool Municiapl Corporation, Kurnool.
2 The Regional Deputy Director of Town Planning, Anantapur.

3 Two CD copies.

*Form-NIC-OGS/WP{**VEENA**}*